

**§ 648.125**

**50 CFR Ch. VI (10–1–14 Edition)**

net must have a minimum mesh size of 5.0 inches (12.7 cm) throughout the net. The Northern Gear Restricted Area 1 is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

**NORTHERN GEAR RESTRICTED AREA 1**

Point	N. lat.	W. long.
NGA1 .....	41°00'	71°00'
NGA2 .....	41°00'	71°30'
NGA3 .....	40°00'	72°40'
NGA4 .....	40°00'	72°05'
NGA1 .....	41°00'	71°00'

(2) *Non-exempt species.* Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (b)(1) of this section apply only to vessels in the Northern Gear Restricted Area 1 that are fishing for, or in possession of, the following non-exempt species: Longfin squid; black sea bass; and silver hake (whiting).

(c) *Transiting.* Vessels that are subject to the provisions of the Southern and Northern GRAs, as specified in paragraphs (a) and (b) of this section, respectively, may transit these areas provided that trawl net codends on board of mesh size less than that specified in paragraphs (a) and (b) of this section are stowed and not available for immediate use as defined in §648.2.

(d) [Reserved]

(e) *Addition or deletion of exemptions.* The MAFMC may recommend to the Regional Administrator, through the framework procedure specified in §648.130(a), additions or deletions to exemptions for fisheries other than scup. A fishery may be restricted or exempted by area, gear, season, or other means determined to be appropriate to reduce bycatch of scup.

(f) *Exempted experimental fishing.* The Regional Administrator may issue an exempted experimental fishing permit (EFP) under the provisions of §600.745(b), consistent with paragraph (d)(2) of this section, to allow any vessel participating in a scup discard mitigation research project to engage in any of the following activities: Fish in the applicable gear restriction area; use fishing gear that does not conform

to the regulations; possess non-exempt species specified in paragraphs (a)(2) and (b)(2) of this section; or engage in any other activity necessary to project operations for which an exemption from regulatory provision is required. Vessels issued an EFP must comply with all conditions and restrictions specified in the EFP.

(1) A vessel participating in an exempted experimental fishery in the Scup Gear Restriction Area(s) must carry an EFP authorizing the activity and any required Federal fishery permit on board.

(2) The Regional Administrator may not issue an EFP unless s/he determines that issuance is consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law and will not:

- (i) Have a detrimental effect on the scup resource and fishery;
- (ii) Cause the quotas for any species of fish for any quota period to be exceeded;
- (iii) Create significant enforcement problems; or
- (iv) Have a detrimental effect on the scup discard mitigation research project.

[76 FR 60633, Sept. 29, 2011, as amended at 77 FR 16480, Mar. 21, 2012; 79 FR 52580, Sept. 4, 2014]

**§ 648.125 Scup gear restrictions.**

(a) *Trawl vessel gear restrictions*—(1) *Minimum mesh size.* No owner or operator of an otter trawl vessel that is issued a scup moratorium permit may possess 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 200 lb (90.7 kg) or more of scup from May 1 through October 31, unless fishing with nets that have a minimum mesh size of 5.0-inch (12.7-cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, and all other nets are stowed and not available for immediate use as defined in §648.2. For trawl nets with codends (including an extension) of fewer than 75 meshes, the entire trawl net must have a minimum mesh size of 5.0 inches (12.7 cm) throughout the net. Scup on board these vessels must be stowed separately and kept readily available for

inspection. Measurement of nets will conform with § 648.80(f).

(2) *Mesh-size measurement.* Mesh sizes will be measured according to the procedure specified in § 648.104(a)(2).

(3) *Net modification.* The owner or operator of a fishing vessel subject to the minimum mesh requirements in § 648.124 and paragraph (a)(1) of this section shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net. However, one splitting strap and one bull rope (if present), consisting of line or rope no more than 3 inches (7.2 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict in any manner the top of the regulated portion of the net, and one rope no greater than 0.75 inches (1.9 cm) in diameter extending the length of the net from the belly to the terminus of the codend along the top, bottom, and each side of the net. "Top of the regulated portion of the net" means the 50 percent of the entire regulated portion of the net that (in a hypothetical situation) will not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor. For the purpose of this paragraph (a)(3), head ropes are not considered part of the top of the regulated portion of a trawl net.

(4) *Mesh obstruction or constriction.* (i) The owner or operator of a fishing vessel subject to the minimum mesh restrictions in § 648.124 and in paragraph (a)(1) of this section shall not use any mesh construction, mesh configuration, or other means on, in, or attached to the top of the regulated portion of the net, as defined in paragraph (a)(3) of this section, if it obstructs or constricts the meshes of the net in any manner.

(ii) The owner or operator of a fishing vessel subject to the minimum mesh requirements in § 648.124 and in paragraph (a)(1) of this section may not use a net capable of catching scup if the bars entering or exiting the knots twist around each other.

(5) *Stowage of nets.* The owner or operator of an otter trawl vessel retaining 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 200 lb

(90.7 kg) or more of scup from May 1 through October 31, and subject to the minimum mesh requirements in paragraph (a)(1) of this section, and the owner or operator of a midwater trawl or other trawl vessel subject to the minimum size requirement in § 648.126, may not have available for immediate use any net, or any piece of net, not meeting the minimum mesh size requirement, or mesh that is rigged in a manner that is inconsistent with the minimum mesh size. A net that is stowed and not available for immediate use as defined in § 648.2, and that can be shown not to have been in recent use, is considered to be not available for immediate use.

(6) *Roller gear.* The owner or operator of an otter trawl vessel issued a moratorium permit pursuant to § 648.4(a)(6) shall not use roller rig trawl gear equipped with rollers greater than 18 inches (45.7 cm) in diameter.

(7) *Procedures for changes.* The minimum net mesh and the threshold catch level at which it is required set forth in paragraph (a)(1) of this section, and the maximum roller diameter set forth in paragraph (a)(6) of this section, may be changed following the procedures in § 648.122.

(b) *Pot and trap gear restrictions.* Owners or operators of vessels subject to this part must fish with scup pots or traps that comply with the following:

(1) *Degradable hinges.* A scup pot or trap must have degradable hinges and fasteners made of one of the following degradable materials:

(i) Untreated hemp, jute, or cotton string of  $\frac{3}{16}$  inches (4.8 mm) diameter or smaller;

(ii) Magnesium alloy, timed float releases (pop-up devices) or similar magnesium alloy fasteners; or

(iii) Ungalvanized or uncoated iron wire of 0.094 inches (2.4 mm) diameter or smaller.

(iv) The use of a single non-degradable retention device designed to prevent loss of the ghost panel after the degradable materials have failed is permitted provided the device does not impair the egress design function of the ghost panel by obstructing the opening or by preventing the panel

## § 648.126

from opening at such time that the degradable fasteners have completely deteriorated.

(2) *Escape vents.* (i) All scup pots or traps that have a circular escape vent with a minimum of 3.1 inches (7.9 cm) in diameter, or a square escape vent with a minimum of 2.25 inches (5.7 cm) for each side, or an equivalent rectangular escape vent.

(ii) The minimum escape vent size set forth in paragraph (b)(2)(i) of this section may be revised following the procedures in § 648.122.

(3) *Pot and trap identification.* Pots or traps used in fishing for scup must be marked with a code of identification that may be the number assigned by the Regional Administrator and/or the identification marking as required by the vessel's home port state.

[76 FR 60634, Sept. 29, 2011, as amended at 79 FR 52580, Sept. 4, 2014]

## § 648.126 Scup minimum fish sizes.

(a) *Moratorium (commercially) permitted vessels.* The minimum size for scup is 9 inches (22.9 cm) TL for all vessels issued a moratorium permit under § 648.4(a)(6). If such a vessel is also issued a charter and party boat permit and is carrying passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat, then the minimum size specified in paragraph (b) of this section applies.

(b) *Party/Charter permitted vessels and recreational fishery participants.* The minimum size for scup is 9 inches (22.9 cm) TL for all vessels that do not have a moratorium permit, or for party and charter vessels that are issued a moratorium permit but are fishing with passengers for hire, or carrying more than three crew members if a charter boat, or more than five crew members if a party boat.

(c) The minimum size applies to whole fish or any part of a fish found in possession, e.g., fillets. These minimum sizes may be adjusted pursuant to the procedures in § 648.122.

[76 FR 60635, Sept. 29, 2011, as amended at 78 FR 37480, June 21, 2013; 79 FR 38264, July 7, 2014]

## 50 CFR Ch. VI (10–1–14 Edition)

## § 648.127 Scup recreational fishing season.

Fishermen and vessels that are not eligible for a moratorium permit under § 648.4(a)(6), may possess scup year-round, subject to the possession limit specified in § 648.128(a). The recreational fishing season may be adjusted pursuant to the procedures in § 648.122.

[78 FR 37480, June 21, 2013]

## § 648.128 Scup possession restrictions.

(a) *Party/Charter and recreational possession limits.* No person shall possess more than 30 scup in, or harvested from, the EEZ unless that person is the owner or operator of a fishing vessel issued a scup moratorium permit, or is issued a scup dealer permit. Persons aboard a commercial vessel that is not eligible for a scup moratorium permit are subject to this possession limit. The owner, operator, and crew of a charter or party boat issued a scup moratorium permit are subject to the possession limit when carrying passengers for hire or when carrying more than five crew members for a party boat, or more than three crew members for a charter boat. This possession limit may be adjusted pursuant to the procedures in § 648.122.

(b) If whole scup are processed into fillets, an authorized officer will convert the number of fillets to whole scup at the place of landing by dividing fillet number by 2. If scup are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole scup.

(c) Scup harvested by vessels subject to the possession limit with more than one person aboard may be pooled in one or more containers. Compliance with the daily possession limit will be determined by dividing the number of scup on board by the number of persons aboard other than the captain and crew. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator.

(d) Scup and scup parts harvested by a vessel with a moratorium or charter or party boat scup permit, or in or from the EEZ north of 35°15.3' N. lat.,